

REMARKS/ARGUMENTS

Prior to entry of this amendment, claims 20-42 were pending in this application. Claim 37 has been amended, no claims have been added, and no claims have been canceled herein. Therefore, claims 20-42 remain pending. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

35 U.S.C. § 112 Rejection, Indefinite

The Office Action has rejected claims 37-39 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Office Action rejects claim 37 alleging that applicant's amendment to claim 37 either render claim 37 as all preamble or a claim statement wherein the steps cannot be distinguished one from another, further stating that the claim is such now that the Examiner cannot positively ascertain the metes and bounds of the claim scope. Applicant submits that amendments have been made herein that are thought to overcome the reasons for the rejection. Specifically, amendments have been made herein to clearly delineate the preamble from the steps of the method. These amendments are strictly formal in nature, add no new matter, and do not necessitate further searching. Therefore, Applicant respectfully requests entry of the amendment and reconsideration and withdrawal of the rejections.

35 U.S.C. § 103 Rejection, Jones in view of Simons

Claims 20, 23-24, and 30-37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Pub. No. 2004/0053661 of Jones et al. (hereinafter "Jones") in view of U.S. Patent No. 1,527,929 to Simons (hereinafter "Simons"). Applicant respectfully submits that the Office Action does not establish a *prima facie* case of obviousness in rejecting

these claims, as amended. Therefore, Applicant requests reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, all claimed limitations must first be taught or suggested by the prior art. *See, e.g., DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006). The Office Action must then provide an explicit analysis supporting the rejection. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (“a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art”). While the Office Action can use one of several exemplary rationales from the MPEP to support an obviousness rejection under *KSR*, all the rationales still require the Office Action to demonstrate that all the claim elements are shown in the prior art. *See* MPEP §2143. As will be discussed below, the references cited by the Office Action do not teach or suggest each claimed limitation.

As noted previously, Jones is directed to “a wagering gaming device which enables a player to affect the movement of a functional element of a game during game play.” (paragraph 6) However, as noted in the previous Office Action, Jones does not teach or suggest graphically manipulating cards in the facedown position. The Office Action has also admitted that Jones is silent as to (graphical) manipulation comprising a three-dimensional (3-D) representation of the cards so as to at least partially reveal the playing cards from a face down representation. It is not clear how Simons address both of the above deficiencies in Jones.

As an initial matter, Applicant notes that Simons is a patent dating from 1925 concerned with securing physical cards face down on a board and allowing players to detach and identify the cards from the board like a lottery. Obviously there is no teaching or any incentive given to combine this cited document with a virtual gaming system such as in Jones. Applicant disagrees that Simons can be a document used to reject the claims.

From the obviousness rejection, the Office Action has not shown how the documents can be technically combined to arrive at the features of claim 20. Rather, with the benefit of hindsight, the Office Action has assembled two references and opines that the claims are obvious. Applicant respectfully submits that this is incorrect. There is no teaching of the technology combined to show the features of claim 20.

In the comments, the Office Action has used a statement “[cards] are revealed as claimed when lifted in one continuous movement by the player” allegedly found in Simons. Applicant has been unable to find any such statement in Simons. Simons only describes a player can “remove the cards from the back member.” See e.g., line 26 and 69-70.

Furthermore, even if it were obvious to turn to the two documents, Jones and Simons, which Applicant emphasizes it is not, the Office Action has made a number of comments regarding Simons that appear to be inconsistent and wrong. First, the Office Action has admitted that Simons prevents the corners of cards from being prematurely “sprung back.” Applicant agrees because it is an aim of Simons to “prevent the corners of the cards from being sprung back and their values thus determined.” See lines 60-65 of Simons. If anything, Applicant respectfully submits that Simons is to prevent cards from being partially revealed. In the context of the description in Simons, the representation shown in Figure 1 is one of the problems that Simons specifically wishes to avoid. That is, Simons is directed at having “no card can be identified until it is removed.” See lines 52-53 of Simons.

Having admitted that Simons prevents the corners of cards from being prematurely “sprung back,” the Office Action then goes on erroneously to comment that it would be obvious “to employ the representation of real (3-D) cards being “sprung back” as taught by Simons” into the teachings of Jones. Clearly, the above comment is at odds and is inconsistent with what the Office Action has first admitted about Simons. Simons prevents cards from being “sprung back” (Office Action’s admission) and does not teach cards being “sprung back” (Office Action’s comments). Indeed, it is now clear that Simons teaches away from partially revealing

cards. Therefore, Applicant emphasizes that the features of claims 20 are not obvious in light of Simons.

Applicant respectfully submits that both Jones and Simons fail to teach or suggest at least the feature of “the manipulation comprising a three-dimensional representation so as to partially reveal each playing card from a face down representation such that a portion of an underside of the playing card in a face down representation is revealed in an advancing manner corresponding to an advancement of the continuous touch movements,” as recited in claim 20.

Applicant respectfully submits that Simon does not teach or suggest any three-dimensional representation in a graphical sense. Applicant respectfully submits that using physical cards is not the same as teaching a skilled person how to graphically manipulate cards in a three-dimensional representation.

Furthermore, Applicant respectfully submits that Simons does not teach or suggest any graphically revealing of a card “in an advancing manner corresponding to an advancement of the continuous touch movements.” In the context of the present application, advancement of continuous touch movements is related to a touch screen. Applicant respectfully submits that it is not equivalent to physically “removing cards by the player” as being done by Simons.

As for Jones, Applicant respectfully submits that Jones does not teach the technology suitable for the above features of claim 20. As described at paragraph 30 of Jones, the technology of Jones is directed to moving game elements to a final position by calculating speed from the distance of touches on a touch screen and the time lapsed between the touches. This is evident at e.g., paragraph 40 for rotation of a wheel, paragraph 41 for affecting the speed of the rotation of the wheel, and paragraph 43 for rolling a dice slowly and gently. Also at paragraph 47 it is described that a mechanical wheel is moved according to touch screen coordinates.

Therefore, Applicant respectfully submits that Jones is directed at detecting speed of touches and moving game elements according to the speed. From the figures, the game elements like the wheel and dices are in two-dimensional format. Applicant respectfully submits that Jones does not teach or suggest “the manipulation comprising a three-dimensional representation so as to partially reveal each playing card from a face down representation such that a portion of an underside of the playing card is in a face down representation is revealed in an advancing manner corresponding to an advancement of the continuous touch movements,” as defined in claim 20.

Therefore, in view of the arguments above, Applicant respectfully submits that claim 20 is not obvious and is patentable in view of Jones and Simons. Applicant also respectfully submits that independent claim 36 and amended independent claim 37, each defining corresponding features discussed above, are not obvious and are patentable in view of Jones and Simons. Accordingly, Applicant respectfully submits that the dependent claims 21 to 35 and 38 to 42, each dependent on a patentable base claim, are not obvious and are patentable for at least the above reasons.

35 U.S.C. § 103 Rejection, Jones in view of Simons and further in view of Sasaki

Claims 21-22 and 38-39 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Simons and further in view of U.S. Patent No. 4,860,217 to Sasaki et al. (hereinafter “Sasaki”). As an initial matter, the Applicants respectfully request withdrawal of the rejection for at least the reason that claims 21 and 22 depend upon a base claim that is thought to be allowable as discussed in detail above. Additionally, the Applicants respectfully contend that Office Action does not establish a *prima facie* case of obviousness in rejecting these claims, as amended.

Additionally, claim 21 recites, inter alia, providing a trigger margin on said each playing card and generating an imaginary elongated member if the touch screen senses

continuous touch movements following a touch within the trigger margin and wherein if a portion of a playing card mapped onto the imaginary elongated member has reached a highest point of the elongated member during partially revealing of the playing card in an advancing manner, the portion of the playing card further advances in the direction of the continuous touch movements without mapping onto the imaginary elongated member.

First, Applicant respectfully submits that Jones does not teach or suggest any trigger margin on a playing card. From Figure 5A, the strip 108 is not on the dice (i.e., not even a trigger margin on a game element).

Furthermore, the Office Action is of the view that Jones discloses a trigger margin because Jones discloses a touch point. Applicant disagrees. First, the portion of the present application referred to by the Office Action describes a touch reference point within a trigger margin, not merely a touch point. Under common English construction, it is well understood that a margin is not a point. Even if read in the context of the description of the present application, which the Applicant submits is not required because the claim language is clear, the description describes a margin formed by two offset parameters of a parameter. See e.g., paragraph 60 of the present application. Therefore, a margin cannot be equivalent to a single touch point. Thus, Applicant respectfully submits that Jones does not teach or suggest a trigger margin.

Further, Jones also does not teach or suggest any generation of an imaginary elongated member following a touch within a trigger margin.

Applicant respectfully submits that the above deficiencies are not addressed in Simon or Sasaki either.

Applicant respectfully submits that Sasaki does not actually teach or suggest any form of trigger, let alone a trigger margin as defined in claim 21. Subsequently, there is no teaching or suggestion of any user trigger that can activate a generation of an elongated member.

On the above basis alone, Applicant respectfully submits that claim 21 is patentable over Jones in view of Simons and Sasaki.

Further, the Office Action is of the opinion that because Sasaki mentions a “page turn-over effect,” Sasaki implicitly teaches that at some point [highest point] the graphics follow a line that turns the paper over rather than wrapping it around the cylinder. However, Applicant respectfully disagrees and submits that Sasaki is limited to what is described. The Office Action should not use hindsight to read beyond what Sasaki has disclosed.

Sasaki explicitly teaches that when a center axis of a cylinder image is translated in parallel to a direction in which one page of a book is turned, a diameter of the cylinder image is increased according to an increase in distance of the parallel translation of the cylinder image in order to continually map the image onto the cylinder image. See e.g., col. 4, line 26 to 31 of Sasaki.

By increasing the diameter, a page turn over effect is provided since continual mapping onto the cylindrical image can be effected. There is no mention of dis-continuous mapping. This is in stark contrast to and indeed, not equivalent to, the feature of “when the portion of the playing card mapped onto the imaginary elongated member has reached a highest point of the imaginary elongated member during partially revealing of the playing card in the advancing manner, the portion of the playing card further advances in the direction of the continuous touch movements without mapping onto the imaginary elongated member,” as defined in claim 21.

Thus, for at least the above reasons, Applicant respectfully submits that a person skilled in the art would not find claim 21 (and corresponding claim 39) in themselves obvious in view of Jones, Simons, and Sasaki. For at least these additional reasons, Applicants respectfully request withdrawal of the rejection.

35 U.S.C. § 103 Rejection, Jones in view of Simons and further in view of Rose

Claims 25-27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Simons and further in view of U.S. Patent Pub. No. 2002/0097229 of Rose (hereinafter “Rose”). The Applicants respectfully request withdrawal of the rejection and allowance of the claims for at least the reason that claims 25-27 each depend upon a base claim that is thought to be allowable as discussed in detail above.

35 U.S.C. § 103 Rejection, Jones in view of Simons and further in view of Nakamura

Claims 28-29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Simons and further in view of U.S. Patent Pub. No. 2005/164789 of Nakamura et al. (hereinafter “Nakamura”). The Applicants respectfully request withdrawal of the rejection and allowance of the claims for at least the reason that claims 28-29 each depend upon a base claim that is thought to be allowable as discussed in detail above.

35 U.S.C. § 103 Rejection, Jones in view of Simons and further in view of Sines

Claims 40-42 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Simons and further in view of U.S. Patent Pub. No. 2001/0000778 of Sines et al. (hereinafter “Sines”).

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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Amdt. dated February 16, 2010
Amendment Under 37 CFR 1.116
Expedited Procedure – Examining Group 3714

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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